

SENATE MOTION

MADAM PRESIDENT:

I move that Senate Bill 483 be amended to read as follows:

- 1 Page 1, line 3, delete ""Proof" and insert **"(a) Except as provided**
- 2 **in subsection (b), "proof"**.
- 3 Page 1, line 4, delete "or documents".
- 4 Page 1, line 4, delete "satisfy" and insert **"satisfies"**.
- 5 Page 1, delete lines 5 through 17.
- 6 Page 2, delete lines 1 through 35, begin a new line block indented
- 7 and insert:
- 8 **"(1) The document shows the name of the individual to whom**
- 9 **the document was issued, and the name conforms to the name**
- 10 **in the individual's voter registration record.**
- 11 **(2) The document shows a photograph of the individual to**
- 12 **whom the document was issued.**
- 13 **(3) The document includes an expiration date, and the**
- 14 **document:**
- 15 **(A) is not expired; or**
- 16 **(B) expired after the date of the most recent general**
- 17 **election.**
- 18 **(4) The document was issued by the United States or the state**
- 19 **of Indiana.**
- 20 **(b) In addition to the document described in subsection (a), a**
- 21 **voter may establish proof of identification by executing under the**
- 22 **penalties of perjury an affidavit, on a form prescribed by the**
- 23 **commission, swearing or affirming that the voter is the individual**
- 24 **whose name appears on the poll list.**
- 25 SECTION 2. IC 3-10-1-7.2 IS ADDED TO THE INDIANA CODE
- 26 AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE
- 27 JULY 1, 2005]: **Sec. 7.2. (a) A voter who desires to vote an official**
- 28 **ballot at a primary election shall provide proof of identification (as**
- 29 **defined in IC 3-5-2-40.5).**
- 30 **(b) Before the voter proceeds to vote in a primary election, a**

member of the precinct election board shall ask the voter to provide proof of identification. The voter must produce the proof of identification before being permitted to sign the poll list.

(c) If:

(1) the voter is unable or declines to present the proof of identification; or

(2) a member of the precinct election board determines that the proof of identification presented by the voter does not qualify as proof of identification under IC 3-5-2-40.5;

a member of the precinct election board shall challenge the voter as prescribed by IC 3-11-8.

(d) If the voter executes a challenged voter's affidavit under section 9 of this chapter or IC 3-11-8-22, the voter may:

(1) sign the poll list; and

(2) receive a provisional ballot."

Page 2, line 37, after "(a)" insert "A voter who desires to vote an official ballot at an election shall provide proof of identification (as defined in IC 3-5-2-40.5).

(b) Before the voter proceeds to vote in the election, a member of the precinct election board shall ask the voter to provide proof of identification. The voter shall produce the proof of identification before being permitted to sign the poll list.

(c) If:

(1) the voter is unable or declines to present the proof of identification; or

(2) a member of the precinct election board determines that the proof of identification provided by the voter does not qualify as proof of identification under IC 3-5-2-40.5;

a member of the precinct election board shall challenge the voter as prescribed by this chapter.

(d) If the voter executes a challenged voter's affidavit under section 22 of this chapter, the voter may:

(1) sign the poll list; and

(2) receive a provisional ballot.

(e)".

Page 2, line 38, strike "admitted".

Page 2, line 39, strike "to the polls. Upon entering the polls, the" and insert "instructed by a member of the precinct election board to proceed to the location where the poll clerks are stationed. The".

Page 3, line 3, strike "(b)" and insert "(f)".

Page 3, delete lines 11 through 13.

Page 3, line 14, delete "(d)" and insert "(g)".

Page 3, line 22, delete "present" and insert "present, in addition to the proof of identification required under subsection (b),".

Page 3, line 23, delete "(e)" and insert "(h)".

Page 3, line 24, delete "(e)" and insert "(h)".

Page 3, line 25, after "42 U.S.C. 15483," insert "in addition to the

- 1 **proof of identification required under subsection (b),".**
- 2 Page 3, line 33, delete "(f)" and insert "(i)".
- 3 Page 3, line 34, delete "(e)," and insert "(h),".
- 4 Page 3, line 39, delete "(g)" and insert "(j)".
- 5 Page 3, line 40, delete "(e)" and insert "(h)".
- 6 Page 4, line 2, delete "(h)" and insert "(k)".
- 7 Page 4, line 6, delete "(i)" and insert "(l)".
- 8 Page 4, line 20, delete "(j)" and insert "(m)".
- 9 Page 4, line 20, delete "(i):" and insert "(l):".
- 10 Page 4, line 26, delete "(k)" and insert "(n)".
- 11 Page 4, between lines 29 and 30, begin a new paragraph and insert:
- 12 **"(b) A voter who desires to vote an official ballot at an election**
- 13 **shall provide proof of identification (as defined in IC 3-5-2-40.5).**
- 14 **(c) Before the voter proceeds to vote in the election, a member**
- 15 **of the precinct election board shall ask the voter to provide proof**
- 16 **of identification. The voter shall produce the proof of identification**
- 17 **before being permitted to sign the poll list.**
- 18 **(d) If:**
- 19 **(1) the voter is unable or declines to present the proof of**
- 20 **identification; or**
- 21 **(2) a member of the precinct election board determines that**
- 22 **the proof of identification provided by the voter does not**
- 23 **qualify as proof of identification under IC 3-5-2-40.5;**
- 24 **a member of the precinct election board shall challenge the voter**
- 25 **as prescribed by this chapter.**
- 26 **(e) If the voter executes a challenged voter's affidavit under**
- 27 **section 22 of this chapter, the voter may:**
- 28 **(1) sign the poll list; and**
- 29 **(2) receive a provisional ballot."**
- 30 Page 4, line 30, strike "(b)" and insert "(f)".
- 31 Page 4, line 31, strike "admitted to the polls. Upon entering the
- 32 polls, the" and insert **"instructed by a member of the precinct**
- 33 **election board to proceed to the location where the poll clerks are**
- 34 **stationed. The"**.
- 35 Page 4, line 37, delete "(g)," and insert "(j),".
- 36 Page 4, line 39, strike "(c)" and insert "(g)".
- 37 Page 5, delete lines 5 through 7.
- 38 Page 5, line 8, delete "(e)" and insert "(h)".
- 39 Page 5, line 16, delete "(f)" and insert "(i)".
- 40 Page 5, line 16, strike "(c):" and insert "(g):".
- 41 Page 5, line 22, delete "(g)" and insert "(j)".
- 42 Page 5, delete lines 27 through 34, begin a new paragraph and insert:
- 43 **"SECTION 5. IC 3-11-8-25.2 IS AMENDED TO READ AS**
- 44 **FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 25.2. (a) This section**
- 45 **applies after December 31, 2005.**
- 46 **(b) The poll clerk or assistant poll clerk shall examine the list**
- 47 **provided under IC 3-7-29-1 to determine if the county election board**

has indicated that the voter is required to provide additional personal identification under 42 U.S.C. 15483 and IC 3-7-33-4.5 before voting in person. If the list (or a certification concerning absentee voters under IC 3-11-10-12) indicates that the voter is required to present this identification before voting in person, the poll clerk shall advise the voter that the voter must present, **in addition to the proof of identification required by section 25.1(b) of this chapter**, a piece of identification described in subsection (c) to the poll clerk.

(c) As required by 42 U.S.C. 15483, **and in addition to the proof of identification required by section 25.1(b) of this chapter**, a voter described by IC 3-7-33-4.5 who has not complied with IC 3-7-33-4.5 before appearing at the polls on election day must present one (1) of the following documents to the poll clerk:

(1) A current and valid photo identification.

(2) A current utility bill, bank statement, government check, paycheck, or government document that shows the name and address of the voter.

(d) If a voter presents a document under subsection (c), the poll clerk shall add a notation to the list indicating the type of document presented by the voter. The election division shall prescribe a standardized coding system to classify documents presented under this subsection for entry into the county voter registration system.

(e) If a voter required to present documentation under subsection (c) is unable to present the documentation to the poll clerk while present in the polls, the poll clerk shall notify the precinct election board. The board shall provide a provisional ballot to the voter under IC 3-11-7-2.

(f) The precinct election board shall advise the voter that the voter may file a copy of the documentation with the county voter registration office to permit the provisional ballot to be counted under IC 3-11-7.

SECTION 6. IC 3-11-8-25.5 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 25.5. If an individual signs the individual's name and either:

(1) signs the individual's address; or

(2) after December 31, 2005, checks the "Address Unchanged" box;

on the poll list under section 25 **or 25.1** of this chapter and then leaves the polls without casting a ballot or after casting a provisional ballot, the voter may not be permitted to reenter the polls to cast a ballot at the election.

SECTION 7. IC 3-11-8-29 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 29. **(a) This section does not apply to a list kept by a poll clerk under section 10.5 of this chapter.**

(b) A precinct election board may not keep a poll list other than the poll list required by section 25 **or 25.1** of this chapter.

SECTION 8. IC 3-11-10-1.2 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: **Sec. 1.2. An absentee voter is not**

required to provide proof of identification when:

(1) mailing, delivering, or transmitting an absentee ballot under section 1 of this chapter; or

(2) voting before an absentee board under this chapter.

SECTION 9. IC 3-11-10-22 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 22. (a) If an absentee ballot is challenged under section 21 of this chapter, the absentee voter's application for an absentee ballot shall be considered as the affidavit required to be made by a voter when challenged at the polls while voting in person. ~~In all other respects~~

(b) Except as provided in subsection (c), the challenge procedure is the same as though the ballot was cast by the voter in person.

(c) An absentee voter is not required to provide proof of identification (as defined in IC 3-5-2-40.5).

(d) If a proper affidavit is made that would entitle the absentee voter to vote if the absentee voter had personally appeared, then the absentee ballot shall be placed in the ballot box.

SECTION 10. IC 3-11.5-4-16 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 16. (a) If an absentee ballot is challenged under section 15 of this chapter, the absentee voter's application for an absentee ballot shall be considered as the affidavit required to be made by a voter when challenged at the polls while voting in person. ~~In all other respects,~~

(b) Except as provided in subsection (c), the challenge procedure under this section is the same as though the ballot was cast by the voter in person.

(c) An absentee voter is not required to provide proof of identification (as defined in IC 3-5-2-40.5).

~~(b)~~ (d) If a proper affidavit by a qualified person in the form required by IC 3-11-8-22 is made that would entitle the absentee voter to vote if the absentee voter had personally appeared, the couriers shall return the affidavit to the county election board in the same envelope as the certificate returned under section 9 of this chapter.

~~(c)~~ (e) The absentee ballot cast by the challenged voter shall be counted if the county election board makes the findings required under section 11 of this chapter.

SECTION 11. IC 3-11.7-2-3 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 3. (a) The precinct election board shall affix to the envelope the challenger's affidavit and the affidavit executed by the provisional voter under section 1 of this chapter.

(b) The form of the envelope is prescribed under IC 3-5-4-8. The envelope must permit a member of a precinct election board to indicate whether the voter has been issued a provisional ballot as the result of a challenge based on the voter's inability or declination to provide proof of identification under IC 3-5-2-40.5.

~~(b)~~ (c) Except as provided in subsection ~~(c)~~ (d) and in accordance with 42 U.S.C. 15482, the precinct election board shall securely keep

the sealed envelope, along with the affidavits affixed to the envelope, in another envelope or container marked "Provisional Ballots".

~~(c)~~ **(d)** This subsection applies to the sealed envelope and the affidavits affixed to the envelope of a provisional voter described in section 1(a)(3) of this chapter. As required by 42 U.S.C. 15482, the precinct election board shall keep the sealed envelope or container separate from the envelope or container described in subsection ~~(b)~~ **(c)**. The envelope or container described in this subsection must be labeled "Provisional Ballots Issued After Regular Poll Closing Hours".

SECTION 12. IC 3-11.7-5-2 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 2. (a) Except as provided in section 5 of this chapter, if the county election board determines that all the following apply, a provisional ballot is valid and shall be counted under this chapter:

(1) The affidavit executed by the provisional voter under IC 3-11.7-2-1 is properly executed.

(2) The provisional voter is a qualified voter of the precinct **and has provided proof of identification, if required, under IC 3-10-1 or IC 3-11-8.**

(3) Based on all the information available to the county election board, including:

(A) information provided by the provisional voter;

(B) information contained in the county's voter registration records; and

(C) information contained in the statewide voter registration file;

the provisional voter registered to vote at a registration agency under this article on a date within the registration period.

(b) If the provisional voter has provided information regarding the registration agency where the provisional voter registered to vote, the board shall promptly make an inquiry to the agency regarding the alleged registration. The agency shall respond to the board not later than noon of the first Friday after the election, indicating whether the agency's records contain any information regarding the registration. If the agency does not respond to the board's inquiry, or if the agency responds that the agency has no record of the alleged registration, the board shall reject the provisional ballot. The board shall endorse the ballot with the word "Rejected" and document on the ballot the inquiry and response, if any, by the agency.

~~(c) This subsection applies after December 31, 2003:~~ Except as provided in section 5 of this chapter, a provisional ballot cast by a voter described in IC 3-11.7-2-1(b) is valid and shall be counted if the county election board determines under this article that the voter filed the documentation required under IC 3-7-33-4.5 and 42 U.S.C. 15483 with the county voter registration office not later than the closing of the polls on election day.

SECTION 13. IC 3-11.7-5-2.5 IS ADDED TO THE INDIANA CODE AS A **NEW** SECTION TO READ AS FOLLOWS

[EFFECTIVE JULY 1, 2005]: **Sec. 2.5. (a) A voter who:**

- (1) was challenged under IC 3-10-1 or IC 3-11-8 as a result of the voter's inability or declination to provide proof of identification as defined by IC 3-5-2-40.5; and**
- (2) cast a provisional ballot;**

may personally appear before the circuit court clerk or the county election board not later than the deadline specified by section 1 of this chapter for the county election board to determine whether to count a provisional ballot.

(b) Except as provided in subsection (c) or (e), if the voter:

- (1) provides proof of identification (as defined in IC 3-5-2-40.5) to the circuit court clerk or county election board; and**
- (2) executes an affidavit before the clerk or board, in the form prescribed by the commission, affirming under the penalties of perjury that the voter is the same individual who:**

(A) personally appeared before the precinct election board; and

(B) cast the provisional ballot on election day;

the county election board shall find that the voter's provisional ballot is valid and direct that the provisional ballot be opened under section 4 of this chapter and processed in accordance with this chapter.

(c) If the voter executes an affidavit before the circuit court clerk or county election board, in the form prescribed by the commission, affirming under the penalties of perjury that:

(1) the voter is the same individual who:

(A) personally appeared before the precinct election board; and

(B) cast the provisional ballot on election day; and

(2) the voter:

(A) is:

(i) indigent; and

(ii) unable to obtain proof of identification without the payment of a fee; or

(B) has a religious objection to being photographed;

the county election board shall determine whether the voter has been challenged for any reason other than the voter's inability or declination to present proof of identification to the precinct election board.

(d) If the county election board determines that the voter described in subsection (c) has been challenged solely for the inability or declination of the voter to provide proof of identification, the county election board shall:

(1) find that the voter's provisional ballot is valid; and

(2) direct that the provisional ballot be:

(A) opened under section 4 of this chapter; and

- 1 **(B) processed in accordance with this chapter.**
- 2 **(e) If the county election board determines that a voter**
- 3 **described in subsection (b) or (c) has been challenged for a cause**
- 4 **other than the voter's inability or declination to provide proof of**
- 5 **identification (as defined in IC 3-5-2-40.5), the board shall:**
- 6 **(1) note on the envelope containing the provisional ballot that**
- 7 **the voter has complied with the proof of identification**
- 8 **requirement; and**
- 9 **(2) proceed to determine the validity of the remaining**
- 10 **challenges set forth in the challenge affidavit before ruling on**
- 11 **the validity of the voter's provisional ballot.**
- 12 **(f) If a voter described by subsection (a) fails by the deadline for**
- 13 **counting provisional ballots referenced in subsection (a) to:**
- 14 **(1) appear before the county election board; and**
- 15 **(2) execute an affidavit in the manner prescribed by**
- 16 **subsection (b) or (c);**
- 17 **the county election board shall find that the voter's provisional**
- 18 **ballot is invalid.**
- 19 SECTION 14. IC 3-11.7-5-3 IS AMENDED TO READ AS
- 20 FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 3. (a) If the board
- 21 determines that the affidavit executed by the provisional voter has not
- 22 been properly executed, that the provisional voter is not a qualified
- 23 voter of the precinct, **that the voter failed to provide proof of**
- 24 **identification when required under IC 3-10-1 or IC 3-11-8**, or that
- 25 the provisional voter did not register to vote at a registration agency
- 26 under this article on a date within the registration period, the board shall
- 27 make the following findings:
- 28 (1) The provisional ballot is invalid.
- 29 (2) The provisional ballot may not be counted.
- 30 (3) The provisional ballot envelope containing the ballots cast by
- 31 the provisional voter may not be opened.
- 32 (b) If the county election board determines that a provisional ballot

- 1 is invalid, a notation shall be made on the provisional ballot envelope:
- 2 "Provisional ballot determined invalid".
- 3 Renumber all SECTIONS consecutively.
(Reference is to SB 483 as printed February 8, 2005.)

Senator LUTZ L